

United States District Court

for the
DISTRICT OF OREGON

United States of America)

v.)

DAVID MICHAEL POWERS)

Defendant.)

Case No.

'12-MJ-117

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of July 21, 2012, in the County of Multnomah, in the District of Oregon, the defendant violated 18 U.S.C. §844(f)(1), an offense described as follows:

Arson of a U.S. Government vehicle

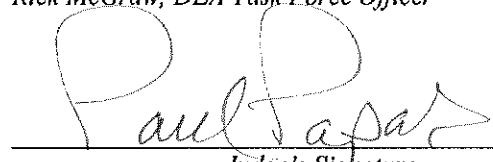
This criminal complaint is based on these facts:

See the attached affidavit of DEA Task Force Officer Rick McGraw, attached hereto

✓ Continued on the attached sheet.


Complainant's signature


Rick McGraw, DEA Task Force Officer


Judge's Signature

Sworn to before me and signed in my presence.

Date: August 5, 2012

City and state: Portland, Oregon

Honorable Paul Papak, U.S. Magistrate Judge
Printed name and title

STATE OF OREGON)
) ss. AFFIDAVIT
COUNTY OF MULTNOMAH)

I, Rick McGraw, being first duly sworn, do depose and say that:

1. I am a fire investigator with the City of Portland's Fire and Rescue Bureau and have been a certified police officer with the City of Portland for 16 years. My job includes the investigation of fires and explosions in the City of Portland and the apprehension of subjects who have committed arson and related crimes within the City of Portland. In my career I have investigated over 2000 fires. I have received training at the National Fire Academy and numerous fire-related seminars, including training in determining the cause and origin of fires and explosions. Since March 2012, I have been and I continue to be a sworn federal task force officer with the U.S. Drug Enforcement Administration (DEA).
2. On July 21, 2012, at approximately 3:00 p.m., an explosion and fire occurred in a small detached garage next to a single-family dwelling in Portland, Oregon. I went to the scene to investigate the fire, as did Portland Fire and Rescue Investigator Nicole Fuge. Inspector Fuge and I discovered the following facts:
3. The premises are the residence of DAVID MICHAEL POWERS (hereinafter "POWERS"), his wife J.A., and their young son. J.A. is a Special Agent with the Federal Bureau of Investigation (FBI). The fire was fueled by gasoline and burned J.A.'s service vehicle, a 2009 Dodge Charger, parked inside the garage. This Dodge Charger is the property of the United States Government and the FBI. Also damaged by the fire, primarily inside the vehicle, was personal property owned by either J.A. or the FBI, including J.A.'s purse, credit cards, FBI badge and credentials, a Glock handgun (J.A.'s FBI service weapon), a Colt M4LE rifle (owned by the FBI), a personal handgun owned by J.A., ballistic vests, ammunition, and other FBI property.
4. As a result of the fire, POWERS sustained serious burns to his hands, arms and face. He was treated at Emanuel Hospital's Burn Center, where he remained until the evening of August 3, 2012, when he was taken into custody by the Portland Police Bureau.
5. I interviewed J.A. after she arrived at the scene of the fire. She and her son had been at the amusement park at Oaks Park in Southeast Portland when the fire occurred. She said she and POWERS are having marital problems and are in the process of separating. She added that POWERS had been noticeably depressed for the last few weeks. J.A. reported that she keeps firearms locked in a safe inside the house and that POWERS has access to that safe. The safe was locked when she left

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for Oaks Park but was open when she returned after the fire, with firearms missing from it.

6. J.A. reported that she does not park her service vehicle, the 2009 Dodge Charger, in the garage and that it was parked on the street, as is her habit, when she left for Oaks Park. J.A. said her husband does not have authority to drive the Dodge Charger, but that he did have access to the vehicle's keys, her service weapon, and her purse (containing her FBI credentials and credit cards), all of which she had left inside the house upon departing for Oaks Park.
7. I spoke with a next-door neighbor, N.H., who told me that he observed POWERS walking in and out of POWERS's house during the afternoon prior to the fire. N.H. also reported that he smelled the strong odor of gasoline inside the garage just prior to the fire. POWERS told N.H. he had spilled gasoline while filling the lawnmower. N.H. was next door in his own backyard when the fire occurred. N.H. heard a loud sound from the garage and saw smoke coming out of it. He discovered the fire and called 911. He found POWERS on the kitchen floor of POWERS's house with the aforementioned burns. N.H. helped POWERS to N.H.'s house until emergency personnel arrived.
8. I know from my experience and training as a fire investigator that the substantial burns to POWERS's arms, hands and face are highly indicative of a fire ignition source being in or near the hands. It is more likely than not that POWERS was holding in front of his person a flame or other ignition source for the gasoline inside the garage and car to ignite.
9. Investigation of the fire scene shows that, in addition to gasoline in and around the Dodge Charger, there were two plastic gasoline containers that had been placed on top of the car, and there was a third gasoline container at the front door of the garage. When firefighters arrived, the front door of the garage was closed, but the smaller side door leading to the backyard and the house was open, thereby allowing POWERS to escape the blaze. The explosion was powerful enough to move the garage off its foundation.
10. Based on the above information and evidence, I believe that DAVID MICHAEL POWERS moved the FBI vehicle into the garage, placed J.A.'s purse, FBI credentials and other property inside the vehicle, and intentionally set fire to the vehicle, thereby causing its destruction. I therefore submit there is probable cause to believe DAVID MICHAEL POWERS committed the federal crime of arson of a U.S. Government vehicle in violation of Title 18, United States Code, Section 844(f)(1), and that a warrant for his arrest should issue.

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11. This affidavit, accompanying criminal complaint, and application for warrant, have been reviewed and approved by Assistant United States Stephen F. Peifer, who concurs in the belief that probable cause exists.



RICK MCGRAW
Investigator,
Portland Fire & Rescue

Task Force Officer,
Drug Enforcement
Administration

Subscribed and sworn before me this 5th day of August 2012.



PAUL PAPAK
United States Magistrate Judge